

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 05-54(1) (DWF)

Respondent-Plaintiff,

v.

ORDER

Richard William Gettel,

Petitioner-Defendant.

This matter is before the Court upon the motion of Richard William Gettel (“Petitioner-Defendant”), (Doc. No. 123), to vacate his sentence of 235 months for the count that carried the Armed Career Criminal Act (“ACCA”) penalties and resentence the Petitioner-Defendant to 120 months, the statutory maximum, now that he is no longer subject to the ACCA, meaning that the Defendant has now overserved his sentence of 120 months with the Bureau of Prisons. The Government agrees that the Petitioner-Defendant’s petition should be granted, his sentence of 235 months should be vacated, and that he should be resented to 120 months to be followed by 3 years of supervised release. (Doc. No. 126.)

Accordingly, **IT IS HEREBY ORDERED** that Petitioner-Defendant Richard William Gettel’s § 2255 motion that challenges his designation as an Armed Career Criminal, (Doc. No. [123]), is **GRANTED**. The Court will issue a new Judgment forthwith that will resentence Petitioner-Defendant Richard William Gettel and which will impose a sentence of 120 months, followed by a term of 3 years of supervised

release, including that he reside for a period of up to 180 days in a residential reentry center as approved by the probation officer and observe the rules of that facility.

Dated: March 17, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge